
HOUSE BILL No. 1740

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: IURC enforcement authority. Allows the Indiana utility regulatory commission (IURC) to impose the following penalties on a telecommunications utility if the utility violates Indiana utility law or fails to comply with an order of the IURC: (1) A civil penalty of not more than \$25,000 per violation. (2) A cease and desist order. (3) An order that the utility remedy the violation. (4) Revocation or modification of the utility's certificate of territorial authority, certificate of public convenience and necessity, or other permit. Authorizes the IURC to direct a telecommunications utility to provide service within 24 hours in certain situations. Requires the IURC to adopt rules granting certain rights to local exchange telephone companies. Requires the IURC to impose a penalty of up to three times the maximum amount of allowable penalties if a telecommunications utility violates a: (1) standard of service; or (2) rule granting rights to local exchange telephone companies. Authorizes the attorney general to bring an action to enforce an order of the IURC to impose a penalty. Provides for the deposit of any penalties collected in the commission public utility fund account. Provides that the IURC may impose only the penalties allowed under current law for violations of slamming and cramming laws.

Effective: July 1, 2001.

Kruzan

January 17, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.



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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1740

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-115 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 115. The commission
3 shall inquire into any neglect or violation of the statutes of this state or
4 the ordinances of any city or town by any public utility doing business
5 therein, or by the officers, agents, or employees thereof, or by any
6 person operating the plant of any public utility, and shall have the
7 power, and it shall be its duty, to enforce the provisions of this chapter,
8 as well as all other laws relating to public utilities. **Except as provided**
9 **in IC 8-1-2.6-9 or in sections 115.1 through 115.3 of this chapter,**
10 any forfeiture or penalty provided in this chapter shall be recovered and
11 suit therein shall be brought in the name of the state of Indiana in the
12 circuit or superior court where the public utility has its principal place
13 of business. Complaint for the collection of any such forfeiture may be
14 made by the commission or any member thereof, and, when so made,
15 the action so commenced shall be prosecuted by the general counsel.
16 SECTION 2. IC 8-1-2-115.1 IS ADDED TO THE INDIANA CODE
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

2001

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1, 2001]: Sec. 115.1. (a) As used in this section, "order" refers to an order, a decision, a decree, a rule, a direction, a demand, or a requirement of the commission.

(b) As used in this section, "telecommunications utility" means a telecommunications provider (as defined in IC 8-1-29-3) over which the commission has jurisdiction.

(c) If after notice and hearing the commission finds that a telecommunications utility has:

(1) violated a provision of this title over which the commission has jurisdiction; or

(2) failed to comply with any part of an order;

the commission may act as provided in subsection (d).

(d) Except as provided in subsection (h), the commission may issue an order that does any of the following if the commission makes a finding under subsection (c):

(1) Impose a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation or noncompliance.

(2) Issue an order that the telecommunications utility cease and desist from the violation or noncompliance.

(3) Issue an order mandating corrective action to alleviate the violation or noncompliance.

(4) Revoke or modify the terms of the telecommunications utility's certificate of territorial authority, certificate of public convenience and necessity, or other permit issued by the commission.

(e) The attorney general may bring an action in a court with jurisdiction on behalf of the state of Indiana to enforce an order of the commission under subsection (d), including the collection of an unpaid civil penalty imposed by the commission under subsection (d)(1).

(f) The secretary of the commission shall deposit any civil penalties collected under this section in the commission public utility fund account established under IC 8-1-6.

(g) Except as provided in subsection (h), the authority granted under this section is in addition to, and may be exercised independently of, any other authority granted under this article.

(h) If, after a hearing conducted under subsection (c), the commission finds that a telecommunications utility has violated:

(1) IC 8-1-29-5; or

(2) rules adopted under IC 8-1-29-6;

the commission may impose only the civil penalties allowed under

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IC 8-1-29-7.5.

SECTION 3. IC 8-1-1-115.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 115.2. (a) As used in this section, "standard of service" refers to any:**

(1) rule, standard, or order adopted or approved by the commission; or

(2) agreement between a telecommunications utility and the commission;

concerning the provision of telecommunications service by a telecommunications utility.

(b) As used in this section, "telecommunications service" has the meaning set forth in IC 8-1-29-4.

(c) As used in this section, "telecommunications utility" means a telecommunications provider (as defined in IC 8-1-29-3) over which the commission has jurisdiction.

(d) A violation of any standard of service by a telecommunications utility is prima facie evidence of the inadequacy of the telecommunications service provided by the telecommunications utility.

(e) If after notice and hearing the commission determines that a telecommunications utility has violated any standard of service, the commission shall impose a civil penalty in an amount determined by the commission. A civil penalty imposed under this section may be in an amount of up to three (3) three times the amount of the maximum civil penalty allowed under section 115.1(d) of this chapter.

(f) The secretary of the commission shall deposit any civil penalties collected under this section in the commission public utility fund account established under IC 8-1-6.

(g) The authority granted under this section is in addition to, and may be exercised independently of, any other authority granted under this article.

SECTION 4. IC 8-1-2-115.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 115.3. (a) As used in this section, "telecommunications provider" has the meaning set forth in IC 8-1-29-3.**

(b) As used in this section, "telecommunications service" has the meaning set forth in IC 8-1-29-4.

(c) As used in this section, "telecommunications utility" refers to a telecommunications provider over which the commission has



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jurisdiction.

(d) If the commission:

(1) determines that the provision of telecommunications service is necessary to prevent injury to any person or to alleviate an emergency; and

(2) directs a telecommunications utility to provide telecommunications service;

the telecommunications utility shall provide telecommunications service within twenty-four (24) hours after receiving direction from the commission.

(e) If the commission finds that a telecommunications utility has violated subsection (d), each day that the telecommunications utility fails to provide service as directed by the commission is considered a separate violation for purposes of imposing civil penalties under section 115.1 of this chapter.

(f) If a telecommunications utility is unable to comply with subsection (d) because of the failure of another telecommunications provider to provide:

(1) adequate network access; or

(2) other wholesale services;

needed by the telecommunications utility to provide telecommunications service, the telecommunications utility may recover from the other telecommunications provider the amount of any civil penalties imposed on the telecommunications utility under section 115.1 of this chapter. The remedy provided under this subsection is in addition to any other remedy available to the telecommunications utility by law.

SECTION 5. IC 8-1-2.6-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) As used in this section, "local exchange telephone company" has the meaning set forth in IC 8-1-2.8-8.

(b) As used in this section, "telecommunications provider" has the meaning set forth in IC 8-1-29-3.

(c) As used in this section, "telecommunications service" has the meaning set forth in IC 8-1-29-4.

(d) As used in this section, "telecommunications utility" refers to a telecommunications provider over which the commission has jurisdiction.

(e) In order to promote competition in the provision of telecommunications service, the commission shall adopt rules to ensure that a local exchange telephone company is accorded rights to the following:

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(1) Timely interconnections of acceptable quality with other telecommunications providers.

(2) Freedom from acts or omissions by another telecommunications provider that impair the speed, quality, or efficiency of telecommunications services used or provided by the local exchange telephone company.

(3) The timely honoring of the local exchange telephone company's requests of another telecommunications provider for information:

(A) regarding the technical design and features, geographic coverage, and traffic capabilities of a local exchange network; or

(B) necessary for the design of equipment.

(4) The timely provision of access in connecting to a local exchange network when a product or service offered by the local exchange telephone company requires novel or specialized access requirements.

(5) Reasonable access to the networks of other telecommunications providers.

(6) Freedom from acts or omissions by another telecommunications provider that substantially impair the ability of the local exchange telephone company to provide service to the local exchange telephone company's customers.

(7) Full compliance with and timely implementation of interconnection agreements entered into by:

(A) the local exchange telephone company; and

(B) another telecommunications provider;

under the federal Telecommunications Act of 1996, in a manner that avoids unreasonable delays and ensures the timely availability of telecommunications services to consumers.

(8) Full compliance by other telecommunications providers with the terms and conditions of the commission's orders implementing the federal Telecommunications Act of 1996.

(f) If after notice and hearing the commission determines that a telecommunications provider has violated a rule adopted by the commission under subsection (e), the commission shall impose a civil penalty in an amount determined by the commission. A civil penalty imposed under this section may be in an amount of up to three (3) times the amount of the maximum civil penalty allowed under IC 8-1-2-115.1(d).

(g) The secretary of the commission shall deposit any civil

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1 penalties collected under this section in the commission public
2 utility fund account established under IC 8-1-6.

3 (h) The authority granted under this section is in addition to,
4 and may be exercised independently of, any other authority
5 granted under this article.

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